

Description

This is a combined synopsis/solicitation for the acquisition of commercial items prepared in accordance with the format in Subpart 12.6 as supplemented with additional information included in this notice. This announcement constitutes the only solicitation. Quotations are being requested and a written solicitation will not be issued. This request for quotation (HSCG38-08-Q-010128) incorporates provisions and clauses in effect through Federal Acquisition Circular 2005-26. This is an unrestricted solicitation. The North American Industry Classification System (NAICS) Code is 488999 and the small business size standard is \$6.5 million. The contract will be awarded using simplified acquisition test program procedures in accordance with FAR Part 13.5. The contract will be awarded as a firm-fixed price purchase order. The award will be in accordance with FAR 6.302-1. The USCG intends to negotiate and award this purchase order to the authorized Original Equipment Manufacturer (OEM), FLIR Systems, Inc., Portland, OR, or any source that can provide the services that meet the OEM's specifications. The requirement consists of the following services to support the STAR SAFIRE III-G system utilized on the HC-144A Coast Guard aircraft:

CLIN 1: Extended Warranty On-site support (max 4 visits per year) 1000 hours per year of system usage, Annual Calibration and check up (Unlimited), Loaner system when available, Customer Liaison support, Parts and Labor. – Qty 1

CLIN 2: Extended Warranty On-site support (max 4 visits per year) 1000 hours per year of system usage, Annual Calibration and check up (Unlimited), Loaner system when available, Customer Liaison support, Parts and Labor. – Qty 1

CLIN 3: Extended Warranty On-site support (max 4 visits per year) 1000 hours per year of system usage, Annual Calibration and check up (Unlimited), Loaner system when available, Customer Liaison support, Parts and Labor. – Qty 1

The following Federal Acquisition Regulation (FAR) and Homeland Security Acquisition Regulations (HSAR), Provisions and Clauses apply:

ADDENDUM

52.212-1 Instructions to Offerors Commercial Items (June 2008)

52.212-3 Offeror Representations and Certifications—Commercial Items.

Offeror Representations and Certifications – Commercial Items (June 2008)

ALT I (APR 2002)

An offeror shall complete only paragraph (j) of this provision if the offeror has completed the annual representations and certifications electronically at <http://orca.bpn.gov>. If an offeror has not completed the annual representations and certifications electronically at the ORCA website, the offeror shall complete only paragraphs (b) through (i) of this provision.

52.212-4 Contract Terms and Conditions – Commercial Items (Feb 2007) is tailored to include the following FAR/HSAR clauses:

FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)

52.204-4 Printed or copied Double-Sided on Recycled Paper (AUG 2000)

52.204-7 Central Contractor Registration (APR 2008)

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(h) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423, or 269-961-5757.

52.215-20 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data (OCT 1997) (Alt IV (OCT 1997))

(a) Submission of cost or pricing data is not required.

(b) Provide information on the prices at which same or similar items have been sold in the commercial market that is adequate for evaluating the reasonableness of the price for this Acquisition.

52.247-48 F.O.B. Destination (FEB 1999)

52.252-2 Clauses incorporated by Reference (Feb 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the Full Text of a clause may be accessed electronically at this Internet address: www.arnet.gov/far/.

HOMELAND SECURITY ACQUISITION REGULATION (48CFR CHAPTER 30) CLAUSES (can be accessed electronically at <http://www.dhs.gov/xopnbiz/regulations/>)

HSAR 3052.209–70 PROHIBITION ON CONTRACTS WITH CORPORATE EXPATRIATES (JUNE 2006).

(a) Prohibitions.

Section 835 of the Homeland Security Act, 6 U.S.C. 395, prohibits the Department of Homeland Security from entering into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation as defined in this clause, or with any subsidiary of such an entity. The Secretary shall waive the prohibition with respect to any specific contract if the Secretary determines that the waiver is required in the interest of national security.

(b) Definitions. As used in this clause:

Expanded Affiliated Group means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504 of such Code shall be applied by substituting 'more than 50 percent' for at least 80 percent each place it appears.

Foreign Incorporated Entity means any entity which is, or but for subsection (b) of section 835 of the Homeland Security Act, 6 U.S.C. 395, would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

Inverted Domestic Corporation. A foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) The entity completes the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership;

(2) After the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

(i) In the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation; or

(ii) In the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership; and

(3) The expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Person, domestic, and foreign have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701(a) of the Internal Revenue Code of 1986, respectively. (c) Special rules. The following definitions and special rules shall apply when determining whether a foreign incorporated entity should be treated as an inverted domestic corporation.

(1) Certain Stock Disregarded. For the purpose of treating a foreign incorporated entity as an inverted domestic corporation these shall not be taken into account in determining ownership:

- (i) Stock held by members of the expanded affiliated group which includes the foreign incorporated entity; or
- (ii) stock of such entity which is sold in a public offering related to the acquisition described in subsection (b)(1) of Section 835 of the Homeland Security Act, 6 U.S.C. 395(b)(1).

(2) Plan Deemed In Certain Cases. If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(3) Certain Transfers Disregarded. The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(d) Special Rule for Related Partnerships. For purposes of applying section 835(b) of the Homeland Security Act, 6 U.S.C. 395(b) to the acquisition of a domestic partnership, except as provided in regulations, all domestic partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as a partnership.

(e) Treatment of Certain Rights.

(1) Certain rights shall be treated as stocks to the extent necessary to reflect the present value of all equitable interests incident to the transaction, as follows:

- (i) warrants;
- (ii) options;
- (iii) contracts to acquire stock;
- (iv) convertible debt instruments; and
- (v) others similar interests.

(2) Rights labeled as stocks shall not be treated as stocks whenever it is deemed appropriate to do so to reflect the present value of the transaction or to disregard transactions whose recognition would defeat the purpose of Section 835.

(f) Disclosure. The offeror under this solicitation represents that [Check one]:

☐ it is not a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.104-70 through 3009.104-73;

☐ it is a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.104-70 through 3009.104-73, but it has submitted a request for waiver pursuant to 3009.104-74, which has not been denied; or

☐ it is a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.104-70 through 3009.104-73, but it plans to submit a request for waiver pursuant to 3009.104-74.

(g) A copy of the approved waiver, if a waiver has already been granted, or the waiver request, if a waiver has been applied for, shall be attached to the bid or proposal.

(End of provision)

52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items. (June 2008)

[Applicable Clauses under 52.212-5]

- 52.203-6 Restrictions on Subcontractor Sales to the Government (SEP 2006) Alternate I (OCT 1995) (41 U.S.C. 253g and U.S.C. 2402)
- 52.219-8 Utilization of Small Business Concerns (MAY 2004) (15 U.S.C 537(d)(2)and (3))
- 52.222-3 Convict Labor (June 2003) (E.O. 11755).
- 52.222-19 Child Labor—Cooperation with Authorities and Remedies (FEB 2008) (E.O. 13126).
- 52.222-21 Prohibition of Segregated Facilities (FEB 1999).
- 52.222-26 Equal Opportunity (MAR 2007) (E.O. 11246).
- 52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEP 2006) (38 U.S.C. 4212).
- 52.222-36 Affirmative Action for Workers with Disabilities (JUNE 1998) (29 U.S.C. 793).
- 52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEPT 2006) (38 U.S.C. 4212).
- 52.222-50 Combating Trafficking in Persons (Aug 2007) (Applies to all contracts)
- 52.225-13 Restrictions on Certain Foreign Purchases (JUN 2008)
- 52.232-33 Payment by Electronic Funds Transfer—Central Contractor Registration (Oct 2003) (31 U.S.C. 3332).
- 52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631).

(End of Clause)

- 52.211-15 Defense Priorities and Allocations System Rating: DO-A1 (APR 2008)

COMDTINST 4200.14 Notice for Filing Agency Protests

It is the policy of the Coast Guard to issue solicitations and make contract awards in a fair and timely manner. The Ombudsman Program for Agency Protests (OPAP) was established to investigate agency protest issues and resolve them without expensive and time-consuming litigation. OPAP is an independent reviewing authority that is empowered to grant a prevailing protester essentially the same relief as the General Accounting Office (GAO). Interested parties are encouraged to seek resolution of their concerns within the Coast Guard as a Alternative Dispute Resolution (ADR) forum, rather than filing a protest with the GAO or some external forums Interested parties may seek resolution of their concerns informally or opt to file a formal agency protest with the contracting officer or Ombudsman. Informal forum with the Ombudsman. Interested parties who believe that a Coast Guard procurement is unfair or otherwise defective should first direct their concerns to the cognizant contracting officer. If the contracting officer is unable to satisfy the concerns, the interested party is encouraged to contact the Coast Guard Ombudsman for Agency Protests. Under this informal process, the agency is not required to suspend contract award performance. Use of an informal forum does not suspend any time requirement for filing a protest with the agency or other forum. In order to ensure a timely response, interested parties should provide the following information to the Ombudsman: solicitation/contract number, contracting office, contracting officer, and solicitation closing date (if applicable). Formal Agency Protest with the Ombudsman. Prior to submitting a formal agency protest, protesters must first use their best efforts to resolve their concerns with the contracting officer through open and frank discussions. If the protester's concerns are unresolved, an independent review is available by the Ombudsman. The protester may file a formal agency protest to either the contracting officer or as an alternative to that, the Ombudsman under the OPAP program. Contract award or performance will be suspended during the protest period unless contract award or performance is justified, in writing, for

urgent and compelling reasons or is determined in writing to be in the best interest of the Government. The agency's goal is to resolve protests in less than 35 calendar days from the date of filing. Protests shall include the information set forth at FAR 33.103(d)(2). If the protester fails to submit the required information, resolution of the protest may be delayed or the protest may be dismissed. This will not preclude refiling of the protest to meet the requirement. To be timely, protests must be filed within the period specified in FAR 33.103 (e). Formal protest filed under the OPAP program should be forwarded to the address below:

Department of Homeland Security
United States Coast Guard (CG-9131)
Ombudsman Program for Agency Protests
1900 Half Street, SW, Room 11-0602
Washington, D. C. 20593-0001
FAX: 202.475.3904

The Ombudsman Hotline telephone number is 202.372.3695.

Closing date and time for receipt of offers is 25 Aug 2008, 4:00 pm, Local Time. **PRICES MUST REMAIN EFFECTIVE FOR 90 DAYS AFTER CLOSING OF SOLICITATION.** All responsible sources may submit a proposal that will be considered by this Agency. Offers may be submitted on company letterhead stationery indicating the nomenclature, part number, unit price and extended price; F.O.B. point, payment terms and any discounts offered for prompt payment, the business size standard and any minority classification; and delivery date. Copies of this solicitation and the Justification for Other Than Full and Open Competition are posted at <http://www.uscg.mil/hq/arsc/contracting/HU25/HU-25.htm>. All offerors submitting a proposal shall have a valid Vendor Cage Code and Dun & Bradstreet number (DUNS) or the ability to get one. Facsimile Offers are acceptable and may be forwarded via fax number 252-334-5427, attention Melissa Deglau or Tonya Bush. Electronic submission may be sent to Melissa.A.Deglau@uscg.mil or Bush.W.Bush@uscg.mil